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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
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11 CHARLES REINHARDT,  
12 Plaintiff,  
13 v.  
14 GAIL TURNER, et al.,  
15 Defendants.  
16

**Case No. CV 18-07234-R (RAOx)**

**ORDER REMANDING ACTION  
AND DENYING APPLICATION TO  
PROCEED WITHOUT PREPAYING  
FEES OR COSTS**

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18 **I.**  
19 **FACTUAL BACKGROUND**

20 Plaintiff Charles Reinhardt (“Plaintiff”) filed an unlawful detainer action in  
21 Los Angeles County Superior Court against Defendants Gail Turner and Does 1 to  
22 10 (“Defendants”), on or about July 18, 2018. Notice of Removal (“Removal”) and  
23 Attached Complaint (“Compl.”) and Answer, Dkt. No. 1. Defendants are allegedly  
24 occupants of real property located in Palmdale, California (“the property”).  
25 Compl. ¶¶ 1, 3, 5. Plaintiff filed the unlawful detainer action seeking restitution of  
26 the property and monetary damages. *Id.* at 2.

27 Defendant Turner filed a Notice of Removal on August 17, 2018, invoking  
28 the Court’s federal question jurisdiction. Removal at 2. Defendant Turner also

1 filed an application to proceed without prepaying fees or costs. Dkt. No. 2.

## 2 II.

### 3 DISCUSSION

4 Federal courts are courts of limited jurisdiction, having subject matter  
5 jurisdiction only over matters authorized by the Constitution and statute. *See, e.g.,*  
6 *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377, 114 S. Ct. 1673, 128 L. Ed.  
7 2d 391 (1994). It is this Court’s duty always to examine its own subject matter  
8 jurisdiction, *see Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514, 126 S. Ct. 1235, 163 L.  
9 Ed. 2d 1097 (2006), and the Court may remand a case summarily if there is an  
10 obvious jurisdictional issue. *Cf. Scholastic Entm’t, Inc. v. Fox Entm’t Grp., Inc.*,  
11 336 F.3d 982, 985 (9th Cir. 2003) (“While a party is entitled to notice and an  
12 opportunity to respond when a court contemplates dismissing a claim on the merits,  
13 it is not so when the dismissal is for lack of subject matter jurisdiction.”) (omitting  
14 internal citations). A defendant attempting to remove an action from state to  
15 federal court bears the burden of proving that jurisdiction exists. *See Scott v.*  
16 *Breeland*, 792 F.2d 925, 927 (9th Cir. 1986). Further, a “strong presumption”  
17 against removal jurisdiction exists. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 567 (9th  
18 Cir. 1992).

19 Defendant asserts that this Court has subject matter jurisdiction pursuant to  
20 28 U.S.C. §§ 1331 and 1441. Removal at 2. Section 1441 provides, in relevant  
21 part, that a defendant may remove to federal court a civil action in state court of  
22 which the federal court has original jurisdiction. *See* 28 U.S.C. § 1441(a). Section  
23 1331 provides that federal “district courts shall have original jurisdiction of all civil  
24 actions arising under the Constitution, laws, or treaties of the United States.” *See*  
25 *id.* § 1331.

26 Here, the Court’s review of the Notice of Removal and attached Complaint  
27 makes clear that this Court does not have federal question jurisdiction over the  
28 instant matter under 28 U.S.C. § 1331. First, there is no federal question apparent

1 from the face of the Complaint, which appears to allege only a simple unlawful  
2 detainer cause of action. *See Wescom Credit Union v. Dudley*, No. CV 10-8203  
3 GAF (SSx), 2010 WL 4916578, at \*2 (C. D. Cal. Nov. 22, 2010) (“An unlawful  
4 detainer action does not arise under federal law.”) (citation omitted); *IndyMac*  
5 *Federal Bank, F.S.B. v. Ocampo*, No. EDCV 09-2337-PA (DTBx), 2010 WL  
6 234828, at \*2 (C.D. Cal. Jan. 13, 2010) (remanding an action to state court for lack  
7 of subject matter jurisdiction where plaintiff’s complaint contained only an  
8 unlawful detainer claim).

9       Second, there is no merit to Defendant’s contention that federal question  
10 jurisdiction exists based on defenses arising under federal law. Removal at 2. It is  
11 well settled that a “case may not be removed to federal court on the basis of a  
12 federal defense . . . even if the defense is anticipated in the plaintiff’s complaint,  
13 and even if both parties concede that the federal defense is the only question truly at  
14 issue.” *Caterpillar Inc. v. Williams*, 482 U.S. 386, 393, 107 S. Ct. 2425, 2430, 96  
15 L. Ed. 318 (1987). Thus, to the extent Defendant’s defenses to the unlawful  
16 detainer action are based on alleged violations of federal law, those defenses do not  
17 provide a basis for federal question jurisdiction. *See id.* Because Plaintiff’s  
18 complaint does not present a federal question, either on its face or as artfully pled,  
19 the court lacks jurisdiction under 28 U.S.C. § 1331.

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